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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/786,265	02/25/2004	Marc A. Pedmo	03-219	2500

7590 02/23/2005

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EXAMINER

MAI, TRI M

ART UNIT	PAPER NUMBER
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3727

DATE MAILED: 02/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/786,265

Applicant(s)

PEDMO ET AL.

Examiner

Tri M. Mai

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) 5,7-10 and 12-14 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-4,6,11 and 15-26 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 02/25.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: ____.

DETAILED ACTION

1. Claims 5, 7-10, and 12-14 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 01/19/05.

It is noted that if a claim encompassing both species is deemed allowable, rejoinder will be permitted at the end of prosecution.

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the depressive region and the channel to be shown in a cross section must be shown. No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will

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be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

3. Claims 19-23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 19 is confusing with respect to the outer boundary being circumscribed (cl. 2) and being separated into two portions (cl. 9).

4. Claims 1-4, 6, 11, and 15-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Krishnakumar et al. (5279433). Krishnakumar teaches a container having a supporting base, a sidewall, having at least one panel with a central region and an outer boundary with the outer boundary being depressed at 360 with respect to the central region.

Regarding claim 2, note the channel structure adjacent portion 360 and the sidewall.

Regarding claim 11, the panels are on the lower portion of the sidewall as claimed.

Regarding claim 18, note the panel being adjacent sidewall 354.

Regarding claim 19, note the two parallel outer boundary portions in Fig. 15.

Regarding claim 20, note the vertical land at portion 362.

5. Claims 22, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Krishnakumar '433 in view of either Silvers et al. (D467813) or LeFevre (D295499). It would have been obvious to one of ordinary skill in the art to provide the spaced panels on the upper portion in Krishnakumar as taught by either Silvers or LeFevre to enhance the gripping of the container.

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6. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Krishnakumar'433 in view of Fuerst (D163453) or Podlucky (D475615). It would have been obvious to one of ordinary skill in the art to provide the spaced panels on the upper portion with spaced panel on the upper portion with raised central area in Krishnakumar as taught by Fuerst or Podlucky to enhance the gripping of the container.

7. Claims 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Krishnakumar'433 in view of either Pedmo et al. (6585123) or Steinke (6065624). It would have been obvious to one of ordinary skill in the art to provide a base with a plurality of outwardly extending struts in Krishnakumar as taught by either Pedmo or Steinke to provide enhance the rigidity of the bottom.

8. Claims 1, 2, 3, 11, 15-18, and 25 are rejected under 35 U.S.C. 102(a) as being anticipated by Ozawa et al. (6513669). Ozawa teaches a container having a supporting base, a sidewall, having at least one panel with a central region and an outer boundary with the outer boundary being depressed at c (Fig. 7) with respect to the central region.

Regarding claim 19, note that the round container would have two opposed panels portions and at least two vacuum panels.

9. Claims 1-4, 6, 11, 15-18, and 25 are rejected under 35 U.S.C. 102(a) as being anticipated by Ota et al. (5407086). Ota teaches a container having a supporting base, a sidewall, having at least one panel with a central region and an outer boundary with the outer boundary being depressed at 12b (Fig. 1) with respect to the central region.

10. Claims 1-4, 6, 11, 15-21, and 25 are rejected under 35 U.S.C. 102(b) as being anticipated by Krishnakumar et al. (5704503). Krishnakumar teaches a container having a supporting base,

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a sidewall, having at least one panel with a central region and an outer boundary with the outer boundary being depressed at R (Fig. 3) with respect to the central region.

11. Claims 1- 4, 6, 11, 15-21, and 25 are rejected under 35 U.S.C. 102(a) as being anticipated by Prevot et al. (2003/0205550). Prevot teaches a container having a supporting base, a sidewall, having at least one panel 134, 136 with a central region and an outer boundary with the outer boundary being depressed at (Fig. 5).

12. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Oxa, or Ota or Krishnakumar '503 in view of Hong et al. (6662960). It would have been obvious to one of ordinary skill in the art provide a sidewall including a central sidewall portion 20 which is depressed with respect to the lower and upper sidewall and including vertical columns 28 in anyone of Oxa, or Ota or Krishnakumar '503 as taught by Hong to provide added vacuum absorption area.

13. Claims 1-4, 6, 11, 15-21, and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hong in view of anyone of Oxa, Ota or Krishnakumar '503. It would have been obvious to one of ordinary skill in the art to provide the vaccumm panels on the lower portion of the bottle in Hong as taught by anyone of Oxa, Ota or Krishnakumar '503 to provide added vacuum absorption area.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tri M. Mai whose telephone number is (571)272-4541. The examiner can normally be reached on 7:30am-5:00pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee W Young can be reached on (571)272-4549. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Tri M. Mai
Primary Examiner
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